

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERT ANTHONY BENSON,

Petitioner,

v.

BRIAN E. WILLIAMS, *et al.*,

Respondents.

Case No. 2:12-cv-00948-MMD-RJJ

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner.

On June 13, 2012, the Court directed petitioner to pay the \$5.00 filing fee required for habeas corpus actions to the Clerk of Court. (Dkt. no. 3). On July 13, 2012, the Clerk of Court received a \$5.00 filing fee for this action. (Dkt. no. 4). On July 23, 2012, the Clerk of Court received another \$5.00 filing fee for this action. (Dkt. no. 5). Each payment bears a different receipt number. (Dkt. nos. 4 & 5). As petitioner has twice paid the filing fee required for habeas corpus petitions, the Clerk of Court will be directed to issue a refund to petitioner in the amount of \$5.00, as specified at the conclusion of this order.

Concurrent with submitting the petition, petitioner filed a motion asking this Court to accept his petition even though it contains pages in excess of the Local Rules. See LSR 3-1. (Dkt. no. 2). Good cause appearing, the motion is granted.

1 The petition shall now be filed and served on respondents. A petition for federal
2 habeas corpus should include all claims for relief of which petitioner is aware. If
3 petitioner fails to include such a claim in his petition, he may be forever barred from
4 seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive
5 petitions).

6 IT IS THEREFORE ORDERED that the Clerk shall FILE and ELECTRONICALLY
7 SERVE the petition (dkt. no. 1) upon the respondents.

8 IT IS FURTHER ORDERED that petitioner's motion to file a petition with excess
9 pages (dkt. no. 2) is GRANTED.

10 IT IS FURTHER ORDERED that the Clerk of Court SHALL ISSUE A REFUND to
11 petitioner in the amount of \$5.00.


12 IT IS FURTHER ORDERED that respondents shall have forty-five (45) days from
13 entry of this order within which to answer, or otherwise respond to, the petition. In their
14 answer or other response, respondents shall address all claims presented in the petition.
15 Respondents shall raise all potential affirmative defenses in the initial responsive
16 pleading, including lack of exhaustion and procedural default. Successive motions to
17 dismiss will not be entertained. If an answer is filed, respondents shall comply with the
18 requirements of Rule 5 of the Rules Governing Proceedings in the United States District
19 Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have forty-five (45)
20 days from the date of service of the answer to file a reply.

21 IT IS FURTHER ORDERED that any state court record exhibits filed by
22 respondents shall be filed with a separate index of exhibits identifying the exhibits by
23 number or letter. The hard copy of all state court record exhibits shall be forwarded, for
24 this case, to the staff attorneys in the Reno Division of the Clerk of Court.

25 IT IS FURTHER ORDERED that, henceforth, petitioner shall serve upon the
26 Attorney General of the State of Nevada a copy of every pleading, motion, or other
27 document he submits for consideration by the Court. Petitioner shall include with the
28 original paper submitted for filing a certificate stating the date that a true and correct

1 copy of the document was mailed to the Attorney General. The Court may disregard any
2 paper that does not include a certificate of service. After respondents appear in this
3 action, petitioner shall make such service upon the particular Deputy Attorney General
4 assigned to the case.

5 DATED THIS 24th day of September 2012.

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UNITED STATES DISTRICT JUDGE